

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>ROHAN SETHI,</b>	)	<b>COMPLAINT FOR</b>
	)	<b>WRIT OF MANDAMUS</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>Civil Action No.</b>
<b>MERRICK B. GARLAND, Attorney</b>	)	
<b>General of the United States;</b>	)	
<b>ALEJANDRO MAYORKAS,</b>	)	
<b>Secretary Department of Homeland</b>	)	
<b>Security; UR MENDOZA JADDOU,</b>	)	
<b>Director, U.S. Citizenship and</b>	)	
<b>Immigration Services,</b>	)	
<b>DENISE FRAZIER,</b>	)	
<b>District Director, District 8 Atlanta,</b>	)	
<b>U.S. Citizenship and Immigration</b>	)	
<b>Service.</b>	)	
	)	
	)	
<b>Defendants.</b>	)	

**COMPLAINT FOR WRIT OF MANDAMUS**

**To the Honorable Judges of Said Court:**

Plaintiff, Mr. Rohan Sethi, through undersigned counsel, alleges as follows:

**INTRODUCTION**

1. This is a civil action brought pursuant to 28 U.S.C. § 1361, 8 U.S.C. § 1329, and 28 U.S.C. § 1331, to redress the deprivation of rights, privileges and

immunities secured to Plaintiff to compel Defendants to perform a duty Defendants owe to Plaintiff. Jurisdiction is also conferred by 5 U.S.C. § 704.

2. This action is brought to compel Defendants and those acting under them to take action on the Form I-485, Application for Adjustment of Status, in order for Plaintiff to be adjudicated a lawful permanent resident of the United States. The Application was paid for with the Department of Homeland Security (“DHS”) and the United States Citizenship and Immigration Services’ (“USCIS”) on February 19, 2020.
3. Defendants, DHS and USCIS, are charged by law with the statutory obligation to adjudicate the Application.

### **JURISDICTION AND VENUE**

4. This action arises under the Immigration and Nationality Act of 1952 (“INA”), 8 U.S.C. § 1255, and 8 U.S.C. § 1254. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question), the INA, the Administrative Procedure Act, 5 U.S.C. § 701 et seq., and the Mandamus Act, 28 U.S.C. § 1361.

5. Venue is proper in this Court under 28 U.S.C. §1391(e)(3) because Defendants maintain an office in this judicial district, and the actions that are the subject of this complaint occurred within this judicial district.

### **FACTS**

6. Plaintiff is a native of the United Kingdom and a citizen of India. Exhibit A.
7. Plaintiff Sethi is the beneficiary of an approved I-140 Petition submitted by his employer on his behalf with a Priority Date of August 2, 2019. The Petition was filed under the Third Preference Category for a Skilled Worker or Professional. See INA Section 203(b)(3)(A)(i); Exhibit B.
8. On February 19, 2020, Plaintiff submitted his Adjustment of Status Application, and he was issued a receipt notice dated February 24, 2020. Exhibit C.
9. In February and August of 2022, Plaintiff filed Form AR-11 Change of Address Forms with USCIS to update his address with USCIS to reflect both times his residence in South Carolina, which include a brief six months in the State of Florida. Exhibit D.
10. On October 6, 2022, Defendants denied Plaintiff's adjustment of status application on the basis that his priority date was not current when the

application was filed, and he was also not eligible to adjust through cross-chargeability. Exhibit E.

11. Unfortunately, this was a clear and very consequential error on the part of the adjudicating officer, as the priority date for the Third Preference Category for the United Kingdom (Plaintiff's country of birth, so proper chargeability) was current at the time of filing and remains current to date. Further, Plaintiff made no claim for cross-chargeability, as implied in the Decision. Id.

12. Plaintiff then filed a Form I-290B with USICS to challenge the improper denial, and on November 22, 2022, Defendants reopened the application. Exhibit F.

13. The application remains pending at this time, but the reopen notice appears to indicate his former temporary address in Palm Beach Gardens, Florida – yet another error by Defendants, causing additional unnecessary delay. Id.

### **CLAIMS**

14. Defendants have willfully and unreasonably delayed in and have refused to properly adjudicate Plaintiff's Application, and they have committed clear error in their review of eligibility for the relief requested.

15. Defendants owe Plaintiff a duty to take action and correct their own errors, and they have unreasonably failed to perform their duty.

16. Plaintiff has exhausted any administrative remedies that may exist.

**WHEREFORE, Plaintiffs prays that the Court:**

15. Compel Defendants and those acting under them to perform their duty to immediately adjudicate Plaintiff's Application;

16. Grant such other and further relief as this Court deems proper under the circumstances; and

17. Grant Attorney's fees and costs of Court to Plaintiff under the Equal Access to Justice Act.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of January, 2023.

KUCK BAXTER IMMIGRATION LLC,

/s/ Danielle M. Claffey

Danielle M. Claffey

GA Bar Number: 222292

365 Northridge Road, Suite 300

Atlanta, GA 30350

Phone: 404-816-8611

Fax: 404-816-8615

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing **COMPLAINT FOR WRIT OF MANDAMUS** was served by certified mail, return receipt requested, on:

Merrick B. Garland  
Attorney General of the United States  
950 Pennsylvania Ave, NW  
Washington, D.C. 20530

Alejandro Mayorkas, Secretary  
Office of the General Counsel  
U.S. Department of Homeland Security  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

Ur Mendoza Jaddou, Director  
U.S. Citizenship and Immigration Services  
c/o Office of the Chief Counsel  
5900 Capital Gateway Drive  
Mail Stop 2120  
Camp Springs, MD 20588-0009

Denise Frazier  
District Director, District 8  
U.S. Citizenship and Immigration Services  
2150 Parklake Drive NE  
Atlanta, GA 30345

Ryan K. Buchanan, U.S. Attorney  
Federal District Court, Northern District of Georgia  
The United States Attorney's Office, Richard B. Russell Federal Building  
75 Ted Turner Drive, S.W., Suite 600  
Atlanta, Georgia 30303-3309

KUCK BAXTER IMMIGRATION LLC,

/s/ Danielle M. Claffey

Danielle M. Claffey

GA Bar Number: 222292

365 Northridge Road, Suite 300

Atlanta, GA 30350

Phone: 404-816-8611

Fax: 404-816-8615

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>ROHAN SETHI,</b>	)	<b>COMPLAINT FOR</b>
	)	<b>WRIT OF MANDAMUS</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>Civil Action No.</b>
<b>MERRICK B. GARLAND, Attorney</b>	)	
<b>General of the United States;</b>	)	
<b>ALEJANDRO MAYORKAS,</b>	)	
<b>Secretary Department of Homeland</b>	)	
<b>Security; UR MENDOZA JADDOU,</b>	)	
<b>Director, U.S. Citizenship and</b>	)	
<b>Immigration Services,</b>	)	
<b>DENISE FRAZIER,</b>	)	
<b>District Director, District 8 Atlanta,</b>	)	
<b>U.S. Citizenship and Immigration</b>	)	
<b>Service.</b>	)	
	)	
	)	
<b>Defendants.</b>	)	
	)	

**LIST OF EXHIBITS**

- Exhibit A**   Copy of Passport
- Exhibit B**   Copy of I-140 Approval Notice
- Exhibit B**   Copy of I-485 Receipt Notice
- Exhibit C**   Copy of Change of Address Confirmations



**Exhibit D** Copy of I-485 Decision

**Exhibit E** Copy of I-290B Reopen Notice